

Michael J. SHEA  
Serial No. 09/541,986

Information Disclosure Statements were filed in this application on June 14, 2000; on April 24, 2000; and on April 3, 2000. The office action summary of the prior office action indicates that the PTO-1449 Forms for these IDS's (*i.e.*, Paper No(s). 2, 3, 4) were attached thereto. However, Applicant did not receive copies of these forms. As such, Applicant respectfully requests that copies be returned with the next office action.

Formal drawings for this application were filed on April 3, 2000. Applicant respectfully requests that the next office action contain an indication that these drawings are acceptable.

Claims 20 and 22-24 were rejected under 35 U.S.C. Section 103(a) as allegedly being "obvious" over Koch *et al.* (U.S. Patent No. 5,207,621) and claim 21 was rejected under 35 U.S.C. Section 103(a) as allegedly being "obvious" over Koch *et al.* in view of Jason (U.S. Patent No. 5,142,358). While not acquiescing in these rejections inasmuch as none of the references even remotely suggests the concept of an exercise apparatus receiving advertisements transmitted from a remote computer, claims 20-22 are amended and claims 23 and 24 are canceled without prejudice or disclaimer. As such, the applied art is discussed with reference to the amended claims.

Koch *et al.* discloses an exercise machine having a video display unit. The video display unit may be in the form of a television screen so that the person using the machine has the option of watching standard television programming with exercise monitoring information overlaid on the screen, or of just watching the monitoring information. Among other things, Koch *et al.* does not disclose or even remotely suggest contacting a remote computer from an exercise apparatus in response to an input to the exercise apparatus; or receiving at the exercise apparatus advertisements transmitted from the contacted remote computer; or providing a display of such advertisements on a display device of the exercise apparatus while the exerciser exercises.

Applicant traverses the implication in the office action that the claims are somehow rendered obvious because it is "well known" to use a remote computer for transmitting information. There is simply no documentary evidence that discloses or suggests that Koch *et al.* be modified to provide a display of advertisements received from a remote computer that is contacted in response to an input to an exercise apparatus. It is impermissible for the USPTO to simply assert that the differences between the invention and the applied art would have been obvious in the absence of any documentary evidence tending to show such obviousness -- the USPTO must produce a factual basis for its rejection of an application under 35 U.S.C. Section 103. *In re Piasecki*, 223 USPQ 785, 788 (Fed. Cir. 1984). The USPTO has failed to provide such a basis for its rejection of the claims based on Koch *et al.*

For at least these reasons, Applicant submits that Koch *et al.* would not have rendered the subject matter of claim 20 obvious. Claim 22 depends from claim 20 and is believed to be allowable at least because of this dependency.

Jason is applied in the office action as showing a stationary bicycle. Jason however does not remedy the above-noted deficiencies of Koch *et al.* As such, even assuming for the sake of argument that Koch *et al.* and Jason were properly combinable and that the references were combined, the combination would not result in the subject matter of claim 21 (which depends from claim 20).

New claims 25-38 are added. The subject matter of these new claims is fully supported by the original disclosure and no new matter is added. New claims 25-28 depend from claim 20 and Applicant respectfully submits that the subject matter of these new claims is allowable for at least the reasons advanced with respect to claim 20. Claims 29-38 are believed to be allowable for reasons similar to those advanced with respect to claim 20.

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Applicant submits that all the claims of record are in condition for allowance, and action to that end is earnestly solicited.

Respectfully submitted,

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Version with markings to show changes made

Claims 20-22 have been amended as follows:

20. *(Amended)* A method for providing a display of advertisements to an exerciser while the exerciser exercises on an exercise apparatus, the method comprising: contacting a remote computer from the exercise apparatus in response to an input to the exercise apparatus; receiving at the exercise apparatus advertisements transmitted from the contacted [a] remote computer [transmitting advertisements to each of a plurality of exercise apparatuses, each exercise apparatus comprising an exercise device and a display]; and providing a display of [each exercise apparatus displaying] the advertisements received from the contacted remote computer on a display device of the exercise apparatus while the exerciser exercises [transmitted thereto on its display while exercisers exercise using its exercise device].

21. *(Amended)* The method according to claim 20, wherein the exercise apparatus is a [apparatuses include] stationary bicycle [bicycles].

22. *(Amended)* The method according to claim 20, wherein the exercise apparatus is a [apparatuses include] stair climber [climbers].

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